

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

SprintCom, Inc.,)	
WirelessCo, L.P.,)	
NPCR, Inc. d/b/a Nextel Partners, and,)	
Nextel West Corp.)	
)	
Petition for Arbitration, Pursuant to Section)	Docket No. 12-0550
252(b) of the Telecommunications Act of)	
1996, to Establish an Interconnection)	
Agreement With Illinois Bell Telephone)	
Company d/b/a AT&T Illinois)	
	/	

RESPONSE
TO AT&T ILLINOIS' MOTION TO SET POST-HEARING SCHEDULE

SprintCom, Inc., WirelessCo, L.P. through their agent Sprint Spectrum L.P., NPCR, Inc. d/b/a Nextel Partners and Nextel West Corp. (collectively, "Sprint") hereby responds in opposition to AT&T Illinois' November 6, 2012 Motion to Set Post Hearing Schedule and states as follows:

This is an Interconnection Agreement Arbitration pursuant to 47 U.S.C. § 252(b) (the "Act") and Part 761 of Title 83 of the Illinois Administrative Code. On October 3, 2012, SprintCom, Inc., WirelessCo, L.P. through their agent Sprint Spectrum L.P., NPCR, Inc., d/b/a Nextel Partners and Nextel West Corp. (collectively, "Sprint") initiated this proceeding by filing a Petition for Arbitration of an Interconnection Agreement with Illinois Bell Telephone Company d/b/a AT&T Illinois.

47 U.S.C. § 252(b)(4)(C) provides that a State commission conducting an Interconnection Agreement Arbitration under Section 252(b) "shall conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request [to negotiate an Interconnection Agreement] under this section." Pursuant to stipulation,

and as admitted in AT&T's Motion, the negotiation request date was April 27, 2012 and that nine months thereafter was January 28, 2013.

Recognizing that the Parties could not resolve, even though Arbitration, the myriad of issues in dispute by January 28, 2013, at a Pre-Hearing Conference on October 11, 2012, the Administrative Law Judges ("ALJs") established a schedule for this proceeding through an evidentiary hearing to be held on February 26, 27, and 28. The ALJs agreed to not set a briefing schedule, but asked the parties to establish a new end-date for the proceeding, after the hearing dates.

JUDGE HAYNES: We're okay with not setting a briefing schedule today, understanding that the issues increase or decrease. However, officially right now I think that our deadline stands at January 28th of 2013 and I think we like the idea of filing a new letter and petition for arbitration cover sheet with a new date, you know, two months out from the hearing date would be fine and everybody could understand that that can be changed. However, since we've been told that our finish date is January 28th, we would like something on the record with a new finish date, a deadline date.¹

While Sprint had proposed a proceeding end date of two months after the conclusion of the evidentiary hearing, and even noted that if the complexity of the issues requires more time later, such could be stipulated to at the hearing,² Sprint proposed a stipulation with an end date for the proceeding of April 28, 2013, however, AT&T Illinois would not agree to such, leading to the filing of its Motion.

If AT&T Illinois' Motion is granted, the end date of this proceeding would be June 28, 2013. AT&T Illinois' proposed date is over fourteen (14) months after Sprint initially commenced negotiation in this proceeding. While the Act guarantees Sprint an Interconnection

¹ Transcript, October 11, 2012, p. 8, ln 7-17.

² *Id.*, p. 7, ln 5-10.

Agreement Arbitration decision within nine (9) months, Sprint has been and remains willing to stipulate to a longer time frame. However, AT&T Illinois' time frame is simply too long.

One proposal for the ALJs would be to examine this proceeding under Illinois Law. Under Section 310 of Part 761 of Title 83 of the Illinois Administrative Code, ILL. ADMIN. CODE tit. 83, § 761.310 (2000), "Arbitration hearings shall be commenced not later than 67 days from the filing of the petition for arbitration." Under the Code, the Hearing in this proceeding should commence on December 10, 2012.³

If the period from December 10, 2012 to the actual commencement of the arbitration hearing on February 26, 2013 were tolled (a toll of 80 days), the nine month deadline under the Act would effectively be moved to April 18, 2013 – only ten days before the April 28, 2013 date that Sprint is proposing for the end date of this proceeding. Thus, Sprint's proposed April 28, 2013 end date for this proceeding is reasonable and should be adopted by the ALJs, as they acknowledged at the Prehearing Conference.⁴ Sprint further believes that until the number and complexity of the issues for resolution in this proceeding are known,⁵ it is premature to establish a post-hearing detailed schedule.

In responding to AT&T's Motion, Sprint remains committed to stipulating to a waiver to the statutory provision that the Commission conclude this proceeding "not later than 9 months after the date on which the local exchange carrier received the request [for negotiation] under" Section 252 of the Act, 47 U.S.C. § 252. However, Sprint cannot in good conscious agree to a

³ Adjusted by one day from Sunday, December 9, 2012.

⁴ *Supra*, fn. 1.

⁵ Sprint and AT&T Illinois continue to negotiate and resolve issues that were raised in the Petition.

time-table that would provide for resolution of this proceeding fourteen months after negotiations were commenced.

WHEREFORE, SprintCom, Inc., WirelessCo, L.P. through their agent Sprint Spectrum L.P., NPCR, Inc. d/b/a Nextel Partners and Nextel West Corp. respectfully request that the ALJ's establish an end date for this proceeding of April 28, 2013.⁶

Respectfully Submitted,

By:

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Nextel Partners, and Nextel West Corp.

Date: November 13, 2012

⁶ Sprint acknowledges that if the complexity of the issues requires such, it may be willing to stipulate to a different date at the conclusion of the Arbitration Hearing.

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SPRINTCOM, INC., WIRELESSCO, L.P.,)
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Illinois Bell Telephone Company)
d/b/a AT&T Illinois)
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NOTICE OF FILING

To: Parties of Record

You are hereby notified that this 13th day of November, 2012, I filed, via the electronic e-docket system, with the Chief Clerk of the Illinois Commerce Commission, a Response to AT&T Illinois' Motion to Set Post-Hearing Schedule on behalf of SprintCom, Inc., WirelessCo, L.P. through their agent Sprint Spectrum L.P., NPCR, Inc. d/b/a Nextel Partners and Nextel West Corp. in the above-captioned docket.

Respectfully Submitted,

By:

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Dated: November 13, 2012

STATE OF ILLINOIS

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/

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Response to AT&T Illinois' Motion to Set Post-Hearing Schedule on behalf of SprintCom, Inc., WirelessCo, L.P. through their agent Sprint Spectrum L.P., NPCR, Inc. d/b/a Nextel Partners and Nextel West Corp., in the above-captioned docket was served upon the parties on the attached service list via United States First Class and Electronic Mail, on November 13, 2012.

Respectfully Submitted,

By:

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Dated: November 13, 2012

**ICC DOCKET NO. 12-0550
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